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[redacted]

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1998

INTERNATIONAL PRIMATE PROTECTION LEAGUE
AND ITS MEMBERS, ET AL.
Petitioners,

v.

ADMINISTRATORS OF TULANE
EDUCATIONAL FUND, ET AL.
Respondents.

ON PETITION FOR WRIT
OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIFTH CIRCUIT

BRIEF IN OPPOSITION FILED ON BEHALF OF THE ADMINISTRATORS OF THE TULANE EDUCATIONAL FUND

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BEST AVAILABLE COPY

QUESTION PRESENTED

1. Whether federal agencies may remove state court actions to federal courts pursuant to 28 U.S.C. 1442(a)(1).

NO. 90-89

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BRIEF ON THE MERITS ON BEHALF OF THE ADMINISTRATORS OF THE TULANE EDUCATIONAL FUND

The respondent, Administrators of the Tulane Educational Fund, has reviewed the law and arguments contained in the briefs on the merits for the National Institute of Health (NIH) and the Institutes for Behavior Resources, Inc. (IBR). Having reviewed the briefs filed by NIH and IBR, the respondent, Administrators of the Tulane Educational Fund, hereby adopt and incorporate herein for reference the statement, law and arguments made by NIH and IBR as if they were its own. The court's attention is specifically directed to the case law and authorities cited in the brief filed by IBR which support our position that The Administrators of the Tulane Educational Fund is a juridical person entitled to remove under 28 U.S.C. §1442(a)(1). We submit that for purposes of this suit, where NIH contracted with Tulane's Delta Regional Primate Research Center to care for the Silver Spring monkeys and jointly conducted primate research, that it too is a "person" entitled to remove this action from state court to federal court under U.S.C. §1442(a)(1). We, therefore, embrace the arguments

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made by NIH and IBR that removal under U.S.C. §1442(a)(1) is proper where injunctive relief is specifically sought against a federal agency irrespective of whether petitioners have chosen to specifically identify individual federal officers of a federal agency in their petition for injunctive relief.

CONCLUSION

For the reasons stated in the briefs submitted by NIH and IBR, the opinion below should be affirmed.

Respectully submitted,

BY: _____
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CERTIFICATE

I hereby certify that a copy of the foregoing pleading has been served on counsel for all parties by placing same in the United States Mail, postage prepaid, addressed to their respective offices, this 11th day of February, 1991.

GREGORY C. WEISS